

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**GREGORY THOMAS,**

**Plaintiff,**

**v.**

**SUPERINTENDENT OLIVER, et al,**

**Defendants.**

**Case No. 1:23-CV-30**

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on February 13, 2023. The matter was assigned and referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff, acting pro se, raises myriad claims arising from his incarceration at SCI Albion. Plaintiff alleges that Defendants engaged in unlawful retaliation, denied him adequate medical care, violated his religious freedoms, subjected him to excessive force, and violated his rights to equal protection and due process. In response to the complaint, Defendants Berndt, Maule, Oliver, Pearson, Stagle, Thompson, Walters, and the DOC filed a motion to dismiss. ECF No. 17. Defendant Wellpath, represented separately, also filed a motion to dismiss. ECF No. 34.

On November 17, 2023, Chief Magistrate Judge Lanzillo issued a Report and Recommendation recommending that both motions be granted. ECF No. 55. Chief Magistrate Judge Lanzillo further recommended that Plaintiff be given the opportunity to amend his complaint as to some of the legal claims.

Despite being advised of the opportunity to do so, Plaintiff filed no Objections to the Report and Recommendation. Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).


After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 14th day of December 2023;

IT IS ORDERED that the motion to dismiss filed by Defendants Berndt, Maule, Oliver, Pearson, Stagle, Thompson, Walters, and the DOC [ECF No. 34] be granted. The DOC is hereby dismissed with prejudice and the Clerk is directed to terminate it from the docket. Plaintiff may file an amended complaint consistent with the Report and Recommendation within twenty days of the date of this Order. Failure to file a timely amended complaint may result in the dismissal of this action.

IT IS FURTHER ORDERED that the motion to dismiss filed by Defendant Wellpath [ECF No. 17] is granted. Wellpath is hereby dismissed with prejudice and the Clerk is directed to terminate it from the docket.

AND, IT IS FURTHER ORDERED that the report and recommendation of Chief Magistrate Judge Lanzillo, issued on November 17, 2023 [ECF No. 55] is adopted as the opinion of the court.

  
/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States District Judge